



January 8, 2016

**VIA ECF FILING**

Hon. Charles R. Breyer  
United States District Court  
Northern District of California  
Phillip Burton Federal Bldg.  
450 Golden Gate Ave.  
San Francisco, California 94012

**Re: *In Re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation*; Case No. 15-MD-2672 CRB (JSC)**

Dear Judge Breyer:

Guided by this Court’s Pretrial Order No. 2, I respectfully request appointment as Co-Lead counsel or, alternatively, a member of Plaintiffs’ Steering Committee to represent all plaintiffs seeking economic damages. My firm filed three class cases against defendants Volkswagen Group of America, Inc., Volkswagen AG and Audi AG, including one here in the Northern District of California, on behalf of 47 plaintiffs from 26 different states. As reflected in Attachment B, my application is supported by more than 60 law firms who filed cases in this MDL. Below, I address the criteria requested by the Court.

Volkswagen’s admitted use of a “defeat device” to surreptitiously evade emissions regulations has shifted the initial focus of this case from culpability to remedy. But the remedy will not be a simple one. Indeed, just days ago, the EPA issued a press release which notably cautioned – “So far, recall discussions with the company have not produced an acceptable way forward.” To this end, having had experience with diesel emissions cases before, my firm retained a number of consultants to assist us in evaluating the appropriate remedy in this case. We retained a distinguished professor of atmospheric chemistry and an engineer whose doctoral dissertation addressed the use of defeat devices to evade emissions regulations. Their work led to changes in the emissions certification procedures for new vehicles. Indeed, both experts worked closely with the EPA and CARB to develop vehicle emissions inspection and testing procedures. In this case, we worked on developing a testing protocol to establish a “baseline” for the class vehicles in order to determine whether any “fix” or remedy proposed or implemented by Volkswagen will adversely affect, among other things, the class vehicles’ fuel efficiency and performance. These issues, among others, must be taken into account in shaping an appropriate remedy here.

The subject matter of this case is not new to our law firm, which has a long history of prosecuting high profile and complex environmental cases. Notably, we previously represented three Bay-area environmental organizations in litigation against school bus provider Laidlaw Transit concerning harmful diesel exhaust emissions from school buses. See *Environmental Law Foundation et al. v. Laidlaw Transit, Inc., et al.*; S.F. Sup. Ct. Case No. CGC 06-451832 (Hon. Ernest H. Goldsmith; Court Clerk 415-551-3823). Our firm negotiated a settlement which, among other things, required Laidlaw to retrofit older school buses in its California fleet with air pollution control devices to protect young children from exposure to harmful diesel exhaust, and to invest millions in its national fleet to purchase new buses that meet the most stringent air pollution standards in the country.



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From the outset of this case, I worked collaboratively with other plaintiffs' counsel to share information necessary to effectively prosecute this case. In this regard, I was invited to make presentations at several "*DieselGate*" seminars in Miami and New Orleans concerning issues we can expect to face in this litigation, including the propriety of asserting RICO claims. Finally, I collaborated with other counsel to ensure that Volkswagen's "goodwill program" would not hinder the prosecution of consumers' class claims. Through these efforts, and my professional relationships, I believe I have earned the trust of the law firms who support my application.

My firm and I will commit the necessary time, energy and financial resources to this case, making it a matter of our highest priority. Indeed, our practice is dedicated to cases like this. Attachment A provides a truncated description of our leadership roles and experience in numerous other multi-state, complex class action cases, including several automotive defect class cases. A representative sample of my personal experience in such cases includes:

- One of three lawyers appointed to the Plaintiffs' Steering Committee in *In Re: Takata Airbag Products Liability Litigation*; S.D. Fla. Case No. 15-md-02599-FAM. A multi-state class action involving millions of vehicles equipped with a defective airbag inflator that is also one of the largest consumer product recalls in U.S. history. (Hon. Federico A. Moreno; Court Clerk: 305-523-5110)
- Co-Lead counsel in *In Re MyFord Touch Consumer Litigation*, N.D. Cal. Case No. 3:13-cv-03072-EMC. A multi-state class action involving millions of vehicles equipped with a defective "infotainment system." (Hon. Edward M. Chen; Court Clerk: 415-522-2034)
- Lead counsel in *Falco v. Nissan North America, Inc.*, C.D. Cal. Case No. 2:13-cv-00686-DDP. A class action involving hundreds of thousands of vehicles equipped with a defective timing chain system. (Hon. Dean D. Pregerson; Court Clerk: 213-894-3913)
- Co-Lead counsel in *Aarons v. BMW*, C.D. Cal. Case No. 2:11-cv-07667-PSG. A class action involving hundreds of thousands of vehicles equipped with a defective transmission. (Hon. Philip S. Gutierrez; Court Clerk: 213-894-8899)
- Co-Lead counsel in *Bias v. Wells Fargo Bank*, N.D. Cal. Case No. 4:12-cv-00664-YGR. A certified nationwide RICO class action involving millions of mortgage loans. (Hon. Yvonne Gonzalez Rogers; Court Clerk: 510-637-3549)
- Co-Lead (for Mortgagor Class) in *In Re LIBOR-Based Financial Instrument Antitrust Litigation*, S.D.N.Y. Case No. 1:11-md-02262-NRB. A class action case filed on behalf of homeowners alleging the artificial manipulation of the London Interbank Offered Rate. (Hon. Naomi Reice Buchwald; Court Clerk 212-805-0194)



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Baron & Budd is a Dallas-based firm and is one of the oldest and most successful plaintiffs' firms in the country. It has been named repeatedly to the National Law Journal's "Plaintiffs' Hot List" of exemplary plaintiffs' firms in the United States. Additionally, it has been selected by *American Lawyer* as one of the sixteen most successful plaintiffs' firms in the country. We have 40 lawyers and 126 support staff, including paralegals and technical support personnel, in our offices in Dallas, Austin, Baton Rouge and Los Angeles, which I co-manage. Since its founding almost 40 years ago, the firm has recovered billions for its clients and has garnered national acclaim for its complex litigation work on behalf of plaintiffs in cases like this. A representative sample of the firm's noteworthy accolades, and other relevant information, is included in Attachment A.

I too have been fortunate to receive accolades for my own work on complex litigation cases. For example, I received commendation from the Department of Justice for assisting them in the successful parallel prosecution of a multi-million dollar foreign currency Ponzi scheme. I was elected to serve on the Board of Governors of the Association of Business Trial Lawyers, and was appointed to serve as a Lawyer Representative to the Ninth Circuit Judicial Conference. I was appointed Chair of the Central District of California's Attorney Settlement Officer Panel Committee and was appointed by Chief Judge George King to serve on the Central District of California's Attorney Admission Fund Board. Along the way, I have been named among the *Best Lawyers In America* (2015, 2016) and a *SuperLawyer* every year since 2006.

Additionally, my strategic approach to cases like this is shaped by the fact that, before joining Baron & Budd, I practiced with the international law firms of Bingham McCutchen LLP and Milbank, Tweed, Hadley & McCloy LLP, where I litigated complex cases on behalf of corporate defendants, and tried multi-million dollar cases to verdict.

I note that my firm and I have also worked closely with Kenneth Feinberg, the recently appointed administrator of Volkswagen's compensation fund. A somewhat analogous fund for personal injury victims was administered by Mr. Feinberg in the *General Motors Ignition Switch Defect* case. There, I provided Mr. Feinberg with information and insight on the breadth and scope of the ignition defect, the nature of the injuries suffered by personal injury victims, some of whom we represented, and the appropriate structure and amount of compensation.

A common thread in my firm's history of success is a well-managed leadership structure populated by talented lawyers committed to efficiency, communication and collaboration. To that end, we commit to working with any group of lawyers selected by this Court to achieve the best possible outcome for the class. We stand ready to prosecute the case without delay.

Respectfully submitted,

/s/ Roland Tellis

Roland Tellis

# **Attachment A**

**BARON & BUDD, P.C.<sup>®</sup>**

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Tel: 214.521.3605  
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Baron & Budd, P.C. is among the largest, oldest and most accomplished plaintiffs' law firms in the country. With 40 attorneys and 126 support staff, in offices in Dallas, Austin, Baton Rouge and Los Angeles, the Firm has the expertise and resources to handle complex litigation throughout the United States. As a law firm that prides itself on remaining at the forefront of novel and complex litigation, Baron & Budd has spearheaded many significant cases for entities and individuals, recovering billions of dollars for its clients.

Since the Firm was founded in 1977, Baron & Budd has achieved national acclaim for its work on cutting-edge litigation, including:

- In 2014, Baron & Budd was named by the *National Law Journal* as one of America's "Elite Trial Lawyers."
- In 2002-2006, 2008, 2011-2013, Baron & Budd was named to the *National Law Journal's* "Plaintiffs' Hot List" of exemplary plaintiffs' firms in the United States.
- *American Lawyer* named Baron & Budd one of the sixteen most successful plaintiffs' firms in the country.
- Baron & Budd has been repeatedly selected by *The Legal 500* as one of the country's premier law firms in mass tort claims and class action litigation.
- In 2010, Baron & Budd was one of only four firms chosen to serve on both the Plaintiffs' Executive Committee and the Plaintiffs' Steering Committee of the *Deepwater Horizon Gulf Oil Spill* MDL.
- In 2009, Baron & Budd was a finalist for the Public Justice "Trial Lawyer of the Year" Award for its recovery of more than \$400 million on behalf of more than 150 municipalities from 17 states, and for its bank overdraft fee class action litigation.
- In 2007, Budd & Baron was honored with the Wiedemann Wysocki National Finance Council Award from the American Association for Justice in recognition of its commitment to the legal profession and its efforts to improve the civil justice system.
- In 2006, the non-profit Public Justice named a team of Baron & Budd attorneys "Trial Lawyer of the Year" for their work on environmental litigation that spanned 21 years, involved over 1,600 plaintiffs, and resulted in a multi-million dollar recovery.

Additional information is available on the Firm's website at [www.baronandbudd.com](http://www.baronandbudd.com).

Roland Tellis is Head of the Firm's Class Action Practice Group. He has held leadership roles in numerous multi-state, complex class action cases, including several high profile automotive defect class cases, involving federal claims, common law claims and the laws of different states. A representative sample of such cases, and the Firms' leadership roles in other cases, includes:

- One of three lawyers appointed to the Plaintiffs' Steering Committee in *In Re: Takata Airbag Products Liability Litigation*. A multi-state class action involving millions of vehicles equipped with a defective airbag inflator that is also one of the largest consumer product recalls in U.S. history.
- Co-Lead counsel in *In Re MyFord Touch Consumer Litigation*. A multi-state class action involving millions of vehicles equipped with a defective "infotainment system."
- Lead counsel in *Falco v. Nissan North America, Inc.*. A class action involving hundreds of thousands of vehicles equipped with a defective timing chain system.
- Co-Lead counsel in *Bias v. Wells Fargo Bank*. A certified nationwide RICO class action involving millions of mortgage loans.
- Co-Lead (for Mortgagor Class) in *In Re LIBOR-Based Financial Instrument Antitrust Litigation*, a class action case filed on behalf of homeowners alleging the artificial manipulation of the London Interbank Offered Rate.
- The Firm served on the Plaintiffs' Steering Committee in a multi-state class action concerning the manipulation of bank overdraft fees. It helped achieve a \$410 million settlement with Bank of America and was co-lead counsel in negotiations that resulted in a \$110 million settlement with JPMorgan Chase.
- One of a handful of firms who helped achieve a landmark multi-million dollar nationwide settlement involving defective Chinese drywall.
- The Firm represented the states of Mississippi, Maryland, Kentucky, West Virginia, South Carolina, Utah and New Mexico in lawsuits against GlaxoSmithKline arising out of the fraudulent marketing of the drug Avandia that resulted in a multi-million dollar settlement.

Mr. Tellis has also been fortunate to receive accolades for his work on complex litigation cases. For example, he received commendation from the Department of Justice for assisting them in a parallel prosecution of a multi-million dollar Ponzi scheme, and was named among the *Best Lawyers In America* (2015, 2016) and a *Super Lawyer* (2006-2015). He was elected to serve on the Board of Governors of the Association of Business Trial Lawyers and was appointed to serve as a Lawyer Representative to the Ninth Circuit Judicial Conference. He was the Chair of the United States District Court for the Central District of California's Attorney Settlement Officer Panel Committee, and was appointed by the Central District of California Chief Judge to the Central District's Attorney Admission Fund Board. Along the way, has devoted time to the *pro bono* representations of indigent clients and has mentored young lawyers and law students in association with the South Asian Bar Association.

# **Attachment B**

**List of Counsel in Transferred Cases Supporting  
Application of Roland Tellis of Baron & Budd, P.C.**

***IN RE: VOLKSWAGEN "CLEAN DIESEL" MARKETING,  
SALES AND PRODUCT LIABILITY LITIGATION  
MDL NO. 15-2672***

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